

EXHIBIT A

2/24/2021 5:07 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 50889109
By: Adiliani Solis
Filed: 2/24/2021 5:07 PM

2021-10741 / Court: 157

NO. _____

NORA GATICA
Plaintiff,

vs.

COSTCO WHOLESALE CORPORATION
AND JOHN DOE
Defendants

§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Plaintiff, complaining of Defendants, and for cause of action shows the following:

I.

Discovery Control Plan

Plaintiff intends for discovery to be conducted under Level Three (3).

II.

Parties

Plaintiff Nora Gatica is an individual resident of Harris County, Texas.

Defendant Costco Wholesale Corporation is a foreign for-profit corporation engaged in business in the State of Texas with a principal place of business at 999 Lake Drive, Issaquah, Washington 98027, and may be served with process through its registered agent, CT Corporation System at 1999 Bryan St., Suite 900, Dallas, TX 75201 or wherever they may be found.

Defendant, John Doe, is an individual residing in Texas and was employed by Defendant Costco Wholesale Corporation's facility at 23645 Katy Fwy., Katy, TX 77449 on March 22, 2019. The identity of said employee of Defendant Costco Wholesale Corporation is unknown to Plaintiff despite Plaintiff's best efforts to identify the employee. Plaintiff files suit against this "John Doe"

Defendant for the purpose of preserving the Statute of Limitations against this Defendant and intends to serve said individual with citation and process when his/her identity becomes known.

III.

Jurisdiction and Venue

Jurisdiction is proper in this Court because Plaintiff is entitled to damages in excess of the minimum jurisdiction of this Court. Although Plaintiff has confidence that the Jury will award a fair and just amount of damages in this matter, Plaintiff is required to plead a specific amount of damages or Defendant may seek Court intervention. Accordingly, although Plaintiff leaves the amount of damages to the Jury, Plaintiff would show the Court and Jury that due to the negligence of Defendant, Plaintiff seeks monetary relief less than \$250,000.00 and non-monetary relief.

Venue is proper in Harris County, Texas, pursuant to § 15.002(a)(1), of the TEXAS CIVIL PRACTICE AND REMEDIES CODE, because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

IV.

Facts

The subject matter of this suit is a slip and fall incident that occurred at Defendant Costco Wholesale Corporation's premises located at 23645 Katy Fwy, Katy, TX 77449. At all times material to this cause of action, Defendant Costco Wholesale Corporation owned the premises in question, and Defendant Costco Wholesale Corporation managed, controlled, and/or operated the premises in question. On or about March 22, 2019, Plaintiff slipped and fell while shopping due to Defendant's failure to maintain the premises in a safe manner.

There were no warning signs posted in the area to warn Plaintiff of the dangerous condition, and no equipment or materials for the purposes of preventing or reducing the risk of slipping and/or falling as a result of the dangerous condition.

As a result of the fall, Plaintiff sustained serious and permanent personal injuries and damages.

Despite medical treatment for the injuries sustained, Plaintiff faces a life of permanent injuries, pain, and impairment.

V.
PREMISES LIABILITY

A water pipe leaking onto one of the of the aisles of a warehouse store presents an unreasonably dangerous condition to the general public.

Defendants knew or should have known of the water pipe leak and unreasonably dangerous floor.

Defendants knew or should have known that customers like Plaintiff would be walking through the aisles of its warehouse store browsing its products and that a puddle of water due to a leaking pipe in the middle of one of its aisles is unreasonably dangerous to customers.

An owner or occupier of ordinary prudence under the same or similar circumstances would have made the floors safe.

An owner or occupier of ordinary prudence would have warned customers like Plaintiff of the danger presented by a puddle of water in the middle of an aisle, especially given the fact that customers routinely enter the warehouse store to browse for products displayed throughout the aisles of the warehouse store.

An owner or occupier of ordinary prudence under the same or similar circumstances would have made the premises reasonably safe by taking reasonable steps to protect customers entering and shopping in its store.

Defendants made no effort to warn Plaintiff of the puddle of water and unreasonably dangerous floor.

Plaintiff was not aware of the water on the floor.

It was necessary for Plaintiff to encounter the puddle of water and unreasonably dangerous floor in order to shop in the warehouse store.

Defendant should have reasonably anticipated it would be unreasonable for Plaintiff to take precautions that could have reduced her risk of encountering the unsafe condition and unreasonably dangerous floor.

If Plaintiff had not encountered the unsafe condition caused by the leaking pipe and unreasonably dangerous floor, she would not have slipped and fallen.

If Plaintiff had not fallen, she would not have sustained the injuries that culminated the need for medical treatment and permanent pain and impairment.

An owner of ordinary prudence under the same or similar circumstances would have foreseen that Plaintiff's injuries, or some similar injuries might reasonably result from an unsafe condition and unreasonably dangerous floor at a popular warehouse store chain.

VI. Negligence

Plaintiff will show that on the occasion in question, Defendants Costco Wholesale Corporation and John Doe were negligent and negligent per se, including, but not limited to, in the following respects and that Defendants' acts or omissions were the proximate cause of Plaintiff's injuries:

1. Failing to keep the premises reasonably safe so as to protect Plaintiff;
2. Failing to use ordinary care;
3. Failing to meet the standard of care owed to invitees on the premises;
4. Maintaining a condition on the premises that posed an unreasonable risk of harm;
5. Failing to properly clean the warehouse store;
6. Failing to properly inspect the warehouse store;
7. Failing to properly maintain water pipes in the warehouse store;
8. Failing to dry the puddle of water created by its leaking pipes;

9. Failing to place warning signs to adequately warn customers of the unsafe condition;
10. Failing to adequately instruct and/or supervise store employees with respect to placing warning signs to adequately warn, taking measures to properly abate, and otherwise keeping the condition of the premises reasonably safe; and
11. Failing to implement safety and inspection policies and procedures to prevent and abate conditions upon the premises that constitute unreasonable risks of harm to customers and invitees.

Each of these acts and/or omissions of Defendants, singularly, collectively, and/or disjunctively were negligent and were each and all a proximate cause of the incident made basis of this lawsuit and of the injuries and damages suffered by Plaintiff.

VII.
Respondeat Superior

Whenever in this Petition it is alleged that Defendant Costco Wholesale Corporation did or failed to do any particular act and/or omission, it is meant that Defendant John Doe, acting individually, or by and through its agents, officers, directors, servants, manager, and employees, either did or failed to do that particular act and/or omission, in the course and scope of its employment, agency or contract with Defendant Costco Wholesale Corporation, and in the furtherance of Defendant Costco Wholesale Corporation's business, including but not limited to the following elements of liability:

1. Plaintiff was injured as the result of a tort;
2. The tortfeasor was an employee of the Defendant Costco Wholesale Corporation;
and
3. The tort was committed while the employee was acting within the scope of employment; that is, the act was
 - a. within the employee's general authority;
 - b. in furtherance of the Defendant Costco Wholesale Corporation's business,and

- c. for the accomplishment of the object for which the employee was hired.

VIII.
Damages

Plaintiff suffered the following legal damages as a result of the conduct of Defendants:

- A. Medical, hospital, pharmaceutical expenses in the past;
- B. Medical, hospital, pharmaceutical expenses that, in reasonable probability Plaintiff will incur in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering that, in reasonable probability, Plaintiff will suffer in the future;
- E. Mental anguish in the past;
- F. Mental anguish that, in reasonable probability, Plaintiff will suffer in the future;
- G. Physical impairment in the past;
- H. Physical impairment that, in reasonable probability, Plaintiff will suffer in the future;
- I. Physical impairment in the past;
- J. Physical impairment that, in reasonable probability, will suffer in the future;
- K. Loss of wage earning capacity in the past; and,
- L. Loss of wage earning capacity that, in reasonable probability, Plaintiff will suffer in the future;

IX.
Required Disclosures

Pursuant to TEX. R. CIV. P. 194, Defendant may be required to disclose to Plaintiff, at the office of the undersigned counsel for Plaintiff, all information or material described in TEX. R. CIV. P. 194.2, 194.3, and 194.4 within 30-days after the filing of Defendant's first answer to Plaintiff's Original Petition.

X.
Court Costs, Pre-Judgment and Post-Judgment Interest

Plaintiff is entitled to recover court costs, pre-judgment and post-judgment interest at the legal rate as provided by law.

XI.
Jury Trial

Plaintiff demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be duly cited in terms of law to appear and answer and that Plaintiff recovers judgment against Defendants for Plaintiff's damages along with pre-judgment and post-judgment interest at the legal rate; costs of Court and for such other and further relief to which Plaintiff may be entitled under equity and in law.

Respectfully submitted,

THE JAMES LAW FIRM

By: /s/ K. James

Katherine M. James

State Bar No. 24091634

John Hallman

State Bar No. 24092474

1095 Evergreen Circle, Suite 537

The Woodlands, TX 77380

281.962.8985/Phone

281.962.5183/Fax

kj@katherinejameslaw.com

jh@katherinejameslaw.com

Counsel for Plaintiff



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this March 19, 2021

Certified Document Number: 94511860 Total Pages: 7

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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Marilyn Burgess
 2021-10741 Court: 157
 HARRIS COUNTY DISTRICT CLERK

2/24/2021 5:07:21 PM
 Marilyn Burgess - District Clerk
 Harris County
 Envelope No: 50889109
 By: SOLIS, ADILIANI A
 Filed: 2/24/2021 5:07:21 PM

201 Caroline | P.O. Box 4661 | Houston, Texas 77210-4661 | 832-927-6800 | www.hcdistrictclerk.com

Request for Issuance of Service

CASE NUMBER: _____ CURRENT COURT: _____

Name(s) of Documents to be served: Plaintiff's Original Petition, Request for Disclosure, and First Set of Discovery

FILE DATE: _____ Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Costco Wholesale Corporation

Address of Service: 1999 Bryan St, Ste. 900

City, State & Zip: Dallas, Texas 75201

Agent (if applicable) CT Corporation System

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- | | | | |
|----------------------------------------------------------------|-------------------------------------------------------|---------------------------------------------------------|-----------------------------------------------------|
| <input checked="" type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias Newspaper _____ | | | |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | | | |
| <input type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not by E-Issuance) | <input type="checkbox"/> Attachment (not by E-Issuance) | |
| <input type="checkbox"/> Certiorari | <input type="checkbox"/> Highway Commission (\$12.00) | | |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00) | <input type="checkbox"/> Hague Convention (\$16.00) | <input type="checkbox"/> Garnishment | |
| <input type="checkbox"/> Habeas Corpus (not by E-Issuance) | <input type="checkbox"/> Injunction | <input type="checkbox"/> Sequestration | |
| <input type="checkbox"/> Subpoena | | | |
| <input type="checkbox"/> Other (Please Describe) _____ | | | |

(See additional Forms for Post Judgment Service)

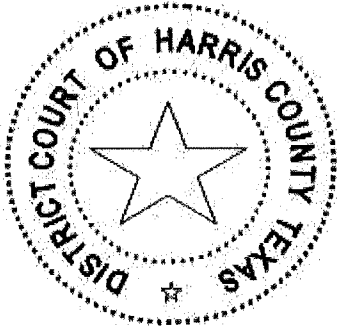
SERVICE BY (check one):

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____ | <input checked="" type="checkbox"/> E-Issuance by District Clerk
(No Service Copy Fees Charged) |
| <input type="checkbox"/> MAIL to attorney at: _____ | Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.
Visit www.hcdistrictclerk.com for more instructions. |
| <input type="checkbox"/> CONSTABLE | |
| <input type="checkbox"/> CERTIFIED MAIL by District Clerk | |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ | |
| <input type="checkbox"/> OTHER, explain <u>Email citation to jk@katherinejameslaw.com</u> | |

Issuance of Service Requested By: Attorney/Party Name: Katherine James Bar # or ID 24091634

Mailing Address: 1095 Evergreen Circle, Ste. 537, The Woodlands, Texas 77380

Phone number: 281.962.8985



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this March 19, 2021

Certified Document Number: 94511861 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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3/2/2021 8:23 PM
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Envelope No. 51093207
By: LISA COOPER
Filed: 3/2/2021 8:23 PM

AFFIDAVIT OF SERVICE

State of Texas

County of Harris

157th Judicial District Court

Case Number: 202110741

Plaintiff:

Nora Gatica

vs.

Defendant:

Costco Wholesale Corporaton

For:

Katherine James
Katherine James Law
440 Louisiana, Ste. 900
Houston, TX 77002

Received by Legal Process Resources on the 28th day of February, 2021 at 5:55 am to be served on **Costco Wholesale Corporation c/o Registered Agent CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201.**

I, Kenneth R. Frechette, being duly sworn, depose and say that on the **2nd day of March, 2021 at 11:30 am, I:**

delivered to its **REGISTERED AGENT** a true copy of the **Citation, Copy of Plaintiff's Original Petition** with the date of service endorsed thereon by me, to: **Lindsay Barrientez** as the **authorized agent** at the address of: **1999 Bryan St., Ste. 900, Dallas, TX 75201** authorized to accept service on behalf of **Costco Wholesale Corporation**, and informed said person of the contents therein, in compliance with state statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Texas Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 2nd
day of March, 2021 by the affiant
who is personally known to me.

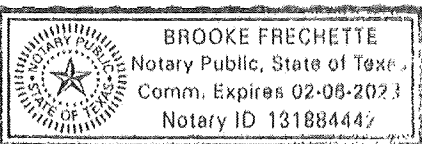
Brooke Frechette
NOTARY PUBLIC

Kenneth R. Frechette

Kenneth R. Frechette
PSC 13712 Exp. 12/31/22

Legal Process Resources
2042 Glencove Drive
Seabrook, TX 77586
(281) 830-6000

Our Job Serial Number: AHC-2021000090
Ref: 2021000090





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office
this March 19, 2021

Certified Document Number: 94608563 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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Harris County Docket Sheet

2021-10741

COURT: 157th

FILED DATE: 2/24/2021

CASE TYPE: Premises



GATICA, NORA

Attorney: JAMES, KATHERINE MARY

VS.

COSTCO WHOLESALE CORPORATION

Docket Sheet Entries

Date

Comment

CAUSE NO. 2021-10741

NORA GATICA,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
COSTCO WHOLESALE CORPORATION,	§	
AND JOHN DOE	§	
	§	
Defendant.	§	157 TH JUDICIAL DISTRICT

**DEFENDANT COSTCO WHOLESALE CORPORATION'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant, COSTCO WHOLESALE CORPORATION, in the above-entitled and numbered cause of action and files this Original Answer to Plaintiff's Original Petition as follows:

GENERAL DENIAL

1. In accordance with Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies the allegations in this lawsuit made by Plaintiff, NORA GATICA, and demands strict proof thereof in accordance with the Constitution and laws of the State of Texas.

II. RIGHT TO AMEND

2. Defendant respectfully reserves the right to amend this Answer after it has had the opportunity to more closely investigate these claims as is its right and privilege under the Texas Rules of Civil Procedure and the laws of the State of Texas.

III. REQUEST FOR JURY TRIAL

3. Defendant COSTCO WHOLESALE CORPORATION respectfully demands a trial by jury pursuant to the provisions of Rule 216 of the Texas Rules of Civil Procedure.

IV. PRAYER

4. WHEREFORE, Defendant COSTCO WHOLESALE CORPORATION prays that the Plaintiff NORA GATICA take nothing in her lawsuit against Defendant and that the Court grant Defendant such other and further relief, general and special, at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted,

HEARD & MEDACK, P.C.

By: /s/ David W. Medack

David W. Medack

State Bar No. 13892950

Zachary Z Robichaux

State Bar No. 24103302

14100 Southwest Freeway, Suite 300

Sugar Land, Texas 77478

Telephone: (713) 772-6400

Facsimile: (713) 772-6495

dmedack@heardmedackpc.com

zrobichaux@heardmedackpc.com

ATTORNEYS FOR DEFENDANT
COSTCO WHOLESALE CORPORATION

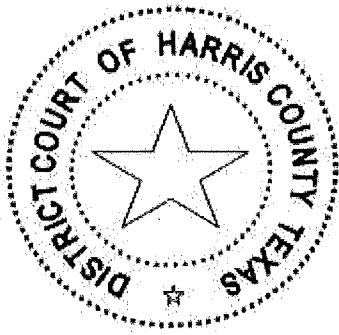
CERTIFICATE OF SERVICE

Pursuant to Rule 21a of the Texas Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing has been served upon all known counsel of record, by facsimile, email, hand delivery, U.S. First Class Mail and/or certified mail, return receipt requested, on this the 22nd day of March, 2021.

Katherine M. James
State Bar No. 24091634
John Hallman
State Bar No. 24092474
The James Law Firm
1095 Evergreen Circle, Suite 537
The Woodlands, Texas 77380
(281) 962-8985 – Telephone
(281) 962-5183 – Facsimile
Email: kj@katherinejameslaw.com
Email: jh@katherinejameslaw.com

ATTORNEYS FOR PLAINTIFF

/s/ David W. Medack
David W. Medack



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this March 23, 2021

Certified Document Number: 94928862 Total Pages: 3

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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